PROVINCE OF NEWFOUNDLAND

TENTH ANNUAL REPORT

of the

PARLIAMENTARY COMMISSIONER (Ombudsman)

FOR THE CALENDAR YEAR

1984

PRESENTED TO THE LEGISLATURE

PURSUANT TO SECTION 29(1) OF

THE PARLIAMENTARY COMMISSIONER (Ombudsman) ACT

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NEWFOUNDLAND

OFFICE OF THE PARLIAMENTARY COMMISSIONER
(OMBUDSMAN)

Prudential Building, 49-55 Elizabeth Avenue, P.O. Box 4750
St. John's, Nfld. A1C 5T7 Phone 753-7730

June 1, 1985

The Honourable the Speaker,
House of Assembly,
Confederation Building,
St. John's, Newfoundland.

Mr. Speaker,

Pursuant to Section 29(1) of The Parliamentary Commissioner (Ombudsman) Act, I have the honour to submit this report covering the activities of my office during the calendar year of 1984.

Respectfully,

Ambrose H. Peddle
Parliamentary Commissioner
(Ombudsman)

SUMMARY OF CASES

REPORTED AS "UNDER INVESTIGATION"

IN 1983 REPORT

82/800/12 DEPARTMENT OF SOCIAL SERVICES

A licenced taxi operator in a rural community complained that the Department of Social Services were paying for transportation of social assistance clients by unlicenced carriers thereby depriving him of income.

The Department position was that in certain instances this is unavoidable, however all field staff would be immediately instructed to keep such practice to an absolute minimum. In other words, licenced carriers are to be used where such are available.

82/WCB/16 WORKERS' COMPENSATION BOARD

Withdrawn

82/WCB/27 WORKERS' COMPENSATION BOARD

Still under investigation

83/500/3 DEPARTMENT OF LABOUR AND MANPOWER

An employee of a catering firm complained that he was dismissed without having received proper notice and that the Labour Standards Division were delaying his request for investigation.

The Ombudsman's inquiry revealed that since the catering firm was an off-shore operation, the Labour Standards office was unsure of jurisdiction, which resulted in delay. The

83/500/3 DEPARTMENT OF LABOUR AND MANPOWER

(continued)

question was resolved and investigation showed that our complainant had, in fact, received proper notice of termination. He was advised of his right to appeal this determination to the Labour Standards Tribunal and further to District Court, if necessary.

83/700/8 DEPARTMENT OF JUSTICE

A probationary member of the Royal Newfoundland Constabulary was dismissed for alleged misconduct. The Chief of Police at the time maintained that according to the working agreement of the Police Brotherhood the member, being of probationary status, was not entitled to a formal hearing.

The opinion of the Ombudsman was that when there is an accusation which could result in disciplinary action, any member is entitled to a hearing before a disciplinary panel under Section 13(1) of The Constabulary Regulations 1970. The Department concurred and ordered that a formal hearing take place. The result was the reinstatement of the member.

83/800/41 DEPARTMENT OF SOCIAL SERVICES

A lady complained that when an aged relative passed away at a Government operated institution, the procedures for accounting for her possessions left much to be desired.

83/800/41 DEPARTMENT OF SOCIAL SERVICES

(continued)

The Ombudsman's investigation confirmed that the lady's complaint was not without justification. The procedures in this regard were greatly improved as a result.

83/1300/1 DEPARTMENT OF CULTURE, RECREATION AND YOUTH

The complainant in this case had killed a moose in the hunting season. On the same day, the animal was confiscated by a Wildlife Protection Officer who subsequently initiated Court action against the complainant under the Wildlife Regulations respecting the gender of the animal.

After a number of months, the charge was dismissed by the Court. Preparations were being made by the Crown for an appeal in the District Court. Eventually that was abandoned. The Department contacted the complainant to inform him that he could now take possession of the moose. However, on inspection of the meat, he concluded that it had deteriorated to the extent that it was unfit for consumption. He requested compensation. It was rejected.

Consultations between the Department and the Ombudsman's Office resulted in suitable compensation arrangements.

83/1700/26 DEPARTMENT OF TRANSPORTATION

Withdrawn

83/NLHC/6 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A citizen, whose application for assistance under the Provincial Home Ownership Assistance Program had been rejected, felt that if the guidelines set for determining eligibility were properly applied, he would receive assistance under the program. Eligibility is based, among other things, on gross family income. The applicant, in this case, had been married for only the last two weeks of the year in respect of which the application was being considered. Notwithstanding that, the Corporation took into account the income of his spouse for the total year in considering eligibility. Had it been for the portion of the year in which they had been married, it would have meant entitlement to financial assistance.

Having studied the matter, the Ombudsman agreed with the complainant's position and recommended that eligibility be re-assessed on that basis. The Corporation re-assessed and approved the application.

83/WCB/1 WORKERS' COMPENSATION COMMISSION

This case remains unresolved at year end.

83/WCB/12 WORKERS' COMPENSATION COMMISSION

A Workers' Compensation claimant, who was in receipt of a twelve percent permanent partial disability pension, felt

83/WCB/12 WORKERS' COMPENSATION COMMISSION

(continued)

that this percentage of disability was inconsistent with his condition.

The Ombudsman assisted him in filing an appeal which resulted in an increased award.

83/WCB/13 WORKERS' COMPENSATION COMMISSION

Withdrawn

83/WCB/14 WORKERS' COMPENSATION COMMISSION

This accident victim also complained that his permanent partial disability award was not consistent with his degree of residual disability.

Based upon evidence presented, the Ombudsman agreed. Discussions with Workers' Compensation resulted in a twenty percent increase in his award.

83/WCB/15 WORKERS' COMPENSATION COMMISSION

A Workers' Compensation claimant had benefits discontinued because he was not regarded as being under active medical treatment nor totally disabled while receiving physiotherapy.

Consultation with the Board by the Ombudsman resulted in a satisfactory resolution of this complaint.

83/WCB/23 WORKERS' COMPENSATION COMMISSION

This complaint from a recipient of a permanent partial disability award was to the effect that the amount of his award was inconsistent with his degree of residual disability.

Shortly after this complaint had been registered, the complainant's prior request for rehabilitation assistance had been approved. There was no further action indicated.

83/WCB/24 WORKERS' COMPENSATION COMMISSION

A recipient of a permanent partial disability award complained that it did not reflect her degree of disability.

The Ombudsman reviewed the file and could only inform the complainant that an increase would be possible with the presentation of new medical evidence to support her case.

83/FOI/6 FREEDOM OF INFORMATION

An employee of a Government Department requested certain information under The Freedom of Information Act. The request was refused by the Minister.

The Ombudsman recommended that part of the information requested could be provided. The Minister agreed.

COMPLAINTS RECEIVED DURING 1984 BY CATEGORY

TOTAL COMPLAINTS RECEIVED	436

BREAKDOWN:

WITHIN OMBUDSMAN'S JURISDICTION	231
FEDERAL (NO JURISDICTION)	59
MUNICIPAL (NO JURISDICTION)	23
PRIVATE (NO JURISDICTION)	96
NO JURISDICTION - OTHER	26
OTHER PROVINCES (NO JURISDICTION)	1
TOTAL	436

SUMMARY OF CASES

WITHIN OMBUDSMAN'S JURISDICTION

1984

84/400/1 DEPARTMENT OF FINANCE

A member of the Newfoundland Constabulary, following twenty-five years of service, retired on pension. He then accepted a position with another Government sponsored agency for a number of years. He was not permitted to make further pension contributions because he was already in receipt of a pension relating to previous Government service. He complained.

Contact with the Department of Finance revealed that legislation was being proposed to address this and other similar situations. The Department later advised that the matter was resolved.

84/400/2 DEPARTMENT OF FINANCE

Declined

84/400/3 DEPARTMENT OF FINANCE

A non-teaching employee of a school board complained that he was not permitted to participate in the Public Service Pension Plan.

Inquiry revealed that the employee in question had been given an option to join several years ago but rejected it in writing. In any event, legislation is pending which would

84/400/3 DEPARTMENT OF FINANCE

(continued)

make it possible for such employees to participate in the Public Service Pension Plan.

84/400/4 DEPARTMENT OF FINANCE

Withdrawn

84/400/5 DEPARTMENT OF FINANCE

A registered vendor under The Retail Sales Tax Act had received an ultimatum from the Department to pay several months arrears of Retail Sales Tax. The vendor admitted having diverted the tax collected to his own use.

The Ombudsman declined involvement.

84/400/6 DEPARTMENT OF FINANCE

A registered vendor under The Retail Sales Tax Act was awaiting payment of a claim for damages from an insurance company. The payment was intercepted by the Department to cover arrears of Retail Sales Tax. The complainant asked the Ombudsman to assist in trying to get the Department to release its demand on the insurance settlement.

The Ombudsman declined involvement.

84/400/7 DEPARTMENT OF FINANCE

An employee covered by the Public Service Pension Plan resigned his position. He complained of delay in receiving refund of his pension contributions.

The Ombudsman's inquiry revealed that the delay was not excessive.

84/500/1 DEPARTMENT OF LABOUR AND MANPOWER

A resident of Labrador West complained he was told that his application for relocation assistance under the Labrador West Assistance Program would be subject to a processing period of three to six weeks.

Contact with an official revealed that that information was erroneous and there would be no such lengthy delay.

84/500/2 DEPARTMENT OF LABOUR AND MANPOWER

Withdrawn

84/500/3 DEPARTMENT OF LABOUR AND MANPOWER

Withdrawn

84/500/4 DEPARTMENT OF LABOUR AND MANPOWER

This complainant alleged undue delay in the establishing of a Labour Standards inquiry regarding a dismissal from employment.

84/500/4 DEPARTMENT OF LABOUR AND MANPOWER

(continued)

The matter was expedited.

84/500/5 DEPARTMENT OF LABOUR AND MANPOWER

Still under investigation at year end

84/600/1 DEPARTMENT OF EDUCATION

A medical student at Memorial University complained that a bursary of approximately fifty dollars per week paid by the Department to medical students during their "clinical clerkship" should be regarded as payment for part time employment rather than a bursary. If this were so, the amounts received would be exempt from consideration in establishing eligibility for student loans and grants.

The Ombudsman could not concur because in order to qualify for student aid a student must be a full time student. He could not be a full time student and a part time employee during the same hours. The Student Aid Regulations provide that all bursaries and other awards based on need must be regarded as a resource in establishing eligibility for Student Aid.

84/600/2 DEPARTMENT OF EDUCATION

A young lady complained that she was refused a student loan.

84/600/2 DEPARTMENT OF EDUCATION

(continued)

The Ombudsman could not help as it was established that she had already borrowed the maximum amount according to regulations.

84/600/3 DEPARTMENT OF EDUCATION

Withdrawn

84/600/4 DEPARTMENT OF EDUCATION

In 1977 a faculty member at Memorial University approached the Teachers' Pension Division to have four years of study at a foreign university included as pensionable service. The Pension Division accepted his contributions for this four year period. This was an error ... the contributions should not have been accepted because in fact the four year period in question was not pensionable because Section 18 of The University Act provides that in order for previous employment as a teacher to be considered, he would have to have been employed as a teacher in Newfoundland at the time of his appointment to the University. In our complainant's case, his last employment as a teacher had been in 1959 and he was not appointed to Memorial University until 1961.

It was the Ombudsman's opinion that although it was unfortunate that the Pension Division had made an error, this could not bind the University to pay a pension contrary to The University Act. Our complainant was entitled to refund of contributions in question, upon request.

84/600/5 DEPARTMENT OF EDUCATION

An applicant for student aid was told by the Division that he could not receive assistance in respect of a sixth course. He complained to the Ombudsman.

After discussion with officials, it was agreed that there was no regulation that excluded a sixth course from eligibility for aid. The matter was adjusted satisfactorily.

84/600/6 DEPARTMENT OF EDUCATION

Withdrawn

84/600/7 DEPARTMENT OF EDUCATION

A lady complained that, after a number of years of serving as supervisor of Public Examinations, her services were no longer availed of for that position. As such short term temporary assignments are not handled by the Newfoundland Public Service Commission, there is very little in the way of procedural guidelines governing such appointments.

The Ombudsman could not assist.

84/600/8 DEPARTMENT OF EDUCATION

A student complained that he was not receiving the correct amount of student aid.

The Ombudsman's inquiry confirmed that the amount being received was according to regulations.

84/600/9 DEPARTMENT OF EDUCATION

This case involved a delay in processing a student loan application.

The Ombudsman helped to have the matter expedited.

84/700/1 DEPARTMENT OF JUSTICE

An irate automobile owner complained that he had received a notice of conviction for a traffic offence which had been committed three months after he had traded the vehicle to which it referred.

The matter was quickly adjusted by Traffic Court.

84/700/2 DEPARTMENT OF JUSTICE

An inmate at H.M. Penitentiary complained that he had been incarcerated for a crime which he did not commit.

He was advised that his only recourse would be by way of an appeal to a higher Court.

84/700/3 DEPARTMENT OF JUSTICE

Two inmates at the St. John's "lock-up" complained that they had been assaulted and mistreated by a prison employee.

Since their lawyer had initiated a Court action on their behalf with regard to these allegations, the Ombudsman declined involvement.

84/700/4 DEPARTMENT OF JUSTICE

A citizen who lived near a church complained that parking regulations were relaxed on Sundays to accommodate worshippers, however he attracted parking tickets when he parked in the same areas on weekdays.

The Ombudsman could not agree that the relaxation of regulations on Sunday to accommodate worshippers constituted any injustice against our complainant or in any way justified his weekday parking offences.

84/700/5 DEPARTMENT OF JUSTICE

An upset young man complained that while driving his car he is under constant surveillance by Royal Newfoundland Constabulary "ghost cars". He provided a list of the licence numbers of the vehicles which were "tailing" him.

On checking the Registry of Motor Vehicles it was found that all the vehicles in question were registered to private citizens. The Royal Newfoundland Constabulary assured the Ombudsman that our complainant had not been and was not under surveillance nor was there any intention of placing him under police surveillance.

84/700/6 DEPARTMENT OF JUSTICE

This was a complaint that the Royal Newfoundland Constabulary had "bungled" an investigation. It was a complaint of very little substance which was later withdrawn by the complainant.

84/700/7 DEPARTMENT OF JUSTICE

A man who was dissatisfied with the division of property in a separation agreement alleged that his wife had given false evidence under oath to the Court. He tried to have an action for perjury initiated against his wife. The Department of Justice concluded that there were no grounds to sustain such an action.

The Ombudsman regarded the complaint as not justified.

84/700/8 DEPARTMENT OF JUSTICE

A motorist complained that the amount of a traffic fine levied by a judge of the Provincial Court had been increased by a computer.

The Department concurred that this was improper and agreed to take steps to remedy it.

84/700/9 DEPARTMENT OF JUSTICE

A citizen complained that his apartment had been searched by Constabulary members in his absence and certain articles removed by the Police.

It was determined that the entry, search and seizure were carried out under the authority of a warrant issued by a Provincial Court Judge.

84/700/10 DEPARTMENT OF JUSTICE

This case involved a series of complaints suggesting improper behaviour by Penitentiary staff towards the inmate complainant. It also included complaints against the Courts, the legal and medical professions.

Efforts were made by the Ombudsman's Office to try and assist the inmate come to grips with what appeared to be difficulties and misunderstandings that were due, in large measure, to his own behaviour. To some extent, I feel, we were successful.

84/700/11 DEPARTMENT OF JUSTICE

A motorist was charged with "intent to mislead a Peace Officer of the Royal Newfoundland Constabulary, and cause him to enter upon an investigation, did unlawfully report that the offence of a stolen motor vehicle had been committed when it had not been committed contrary to Section 128(c)(f) of The Criminal Code of Canada." The action was dismissed by the Court. The complainant made a claim to the Department for compensation for legal fees. His claim was rejected by Treasury Board.

The Ombudsman concurred that there is no provision in our system for compensation for legal fees when the Crown fails to sustain an action.

84/700/12 DEPARTMENT OF JUSTICE

A young man was one of a large number of applicants for a vacancy in the St. John's Fire Department. He complained to the Ombudsman when he was unsuccessful. The advertisement which called for applicants had clearly stated that applicants would be required to submit to a physical assessment. He did not pass.

The Ombudsman's inquiries revealed no irregularity.

84/700/13 DEPARTMENT OF JUSTICE

A citizen complained to the Ombudsman that the Royal Newfoundland Constabulary were retaining in their files records of investigations concerning him from which no charges were ever made.

The Ombudsman's inquiry revealed that there is no provision for destroying Police records, however an individual could make a special request in this regard to the Minister.

84/700/14 DEPARTMENT OF JUSTICE

An inmate at the Penitentiary complained that he had lost twenty-five days "remission" time when he was accused of being "in possession of any article not permitted by the Superintendent" contrary to Section 12(2)(e) of Prison Regulations 1969. He pleaded guilty to the charge before the Prison Disciplinary Panel.

84/700/14 DEPARTMENT OF JUSTICE

(continued)

There was no possible assistance by the Ombudsman.

84/700/15 DEPARTMENT OF JUSTICE

A student complained that her apartment had, on a number of occasions, been entered and items were stolen. Since there was no visible sign of forced entry in either case, the Police were unable to do anything. She said she realized the difficulty of the Police in such cases. Apparently entry to the apartment was by using a key. She also complained that she was receiving annoying phone calls.

The Ombudsman could only suggest that she have the lock to her apartment replaced and discuss the telephone problem with the Telephone Company.

84/700/16 DEPARTMENT OF JUSTICE

This case involved a misunderstanding regarding the reason given by Legal Aid to a citizen for not granting assistance. The matter was cleared up.

84/700/17 DEPARTMENT OF JUSTICE

Withdrawn

84/700/18 DEPARTMENT OF JUSTICE

Still under investigation at year end

84/800/1 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/2 DEPARTMENT OF SOCIAL SERVICES

A recipient of social assistance complained that the Department would not pay the cost of providing dentures. The Ombudsman learned that was indeed Department policy however, with a certificate of inability to pay from the Department and a strong recommendation from a medical doctor, the Department of Health would consider.

This information was given to the complainant.

84/800/3 DEPARTMENT OF SOCIAL SERVICES

An employee of the Department had attempted for a number of years to have what she regarded as a salary anomaly corrected.

The Ombudsman's investigation resulted in the matter being rectified and several thousand dollars in retroactive salary being paid to the complainant.

84/800/4 DEPARTMENT OF SOCIAL SERVICES

This complaint concerned a dispute between a social assistance recipient and the Department as to entitlement to transportation expenses.

84/800/4 DEPARTMENT OF SOCIAL SERVICES

(continued)

It was declined by the Ombudsman pursuant to Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

84/800/5 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

84/800/6 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

84/800/7 DEPARTMENT OF SOCIAL SERVICES

A truck operator had been engaged by a recipient of social assistance to move furniture. The move had been authorized by the Department and the recipient instructed to submit a claim for the expense. The truck operator complained that he had not been paid.

The Ombudsman's inquiry revealed that no claim had been submitted. The Department agreed to see that the matter was quickly resolved.

84/800/8 DEPARTMENT OF SOCIAL SERVICES

A recipient of social assistance complained that the amount of his allowance was not adequate for the needs of his family.

84/800/8 DEPARTMENT OF SOCIAL SERVICES

(continued)

Since he was receiving the full amount provided by regulations, the Ombudsman could not assist.

84/800/9 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/10 DEPARTMENT OF SOCIAL SERVICES

The complainant in this case sought the assistance of the Ombudsman in finding living accommodations for her twenty year old unemployed brother who was a social assistance recipient.

On contacting the Department it was learned that a social worker had the matter well in hand; had recommended that the maximum rate of board and lodging assistance be provided and anticipated finding employment for him in the near future.

84/800/11 DEPARTMENT OF SOCIAL SERVICES

A nineteen year old, who had left home and moved in with her boyfriend and his parents, complained that her application for social assistance was rejected. The young lady's parents were willing to support her if she returned home. She insisted on remaining with her boyfriend who had a regular income.

84/800/11 DEPARTMENT OF SOCIAL SERVICES

(continued)

The Ombudsman could not disagree with the decision to refuse assistance.

84/800/12 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/13 DEPARTMENT OF SOCIAL SERVICES

A social assistance recipient with an unusual medical condition made appointments to consult two medical specialists in another province. She then requested assistance for travel expenses. The Department advised that the Department of Health deals with such requests in the first instance to determine the necessity of such out of the Province consultation. There was not sufficient time to make this assessment prior to the dates of the appointments, however the Department of Health agreed to complete its assessment and, if the consultations were deemed essential, she would be assisted by the Department of Social Services.

84/800/14 DEPARTMENT OF SOCIAL SERVICES

A person employed on a department work project had a question regarding wages paid to him. It was resolved to his satisfaction.

84/800/15 DEPARTMENT OF SOCIAL SERVICES

A person from outside the Province was refused social assistance when he could not provide any fixed address.

The Ombudsman arranged an appointment with a Department official for a further review.

84/800/16 DEPARTMENT OF SOCIAL SERVICES

A low income family had applied to the Department for assistance in purchasing eyeglasses for three children in that family. It appeared the application would be rejected.

Discussion by the Ombudsman's Office with the Department revealed that the request was being considered and,if eligibility were established, assistance would be provided. The complainant was advised accordingly and invited to get in touch with the Ombudsman again, if necessary.

84/800/17 DEPARTMENT OF SOCIAL SERVICES

A social assistance recipient who had been provided with a mattress by the Department complained that a lower quality and price mattress had been delivered than the one which the Department paid for. The dealer who supplied the mattress agreed that the mattress which the person now has is not the one which they delivered, however they are adamant that there had been no error on their part. Delivery records, signatures, etc. supported their position.

84/800/17 DEPARTMENT OF SOCIAL SERVICES

(continued)

The Ombudsman decided not to pursue the matter further.

84/800/18 DEPARTMENT OF SOCIAL SERVICES

A recipient complained that the amount of his allowance was incorrect.

It was found to be correct and explained to his satisfaction.

84/800/19 DEPARTMENT OF SOCIAL SERVICES

A recipient complained that she could not get full cost of childrens' eyeglasses paid by the Department.

It was explained that the maximum payable for eyeglasses is regular $55.00 and bifocals $65.00.

84/800/20 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

84/800/21 DEPARTMENT OF SOCIAL SERVICES

A recipient complained that she was having great difficulty in contacting her social worker and that a receptionist would not "put her through".

84/800/21 DEPARTMENT OF SOCIAL SERVICES

(continued)

She was advised to contact the Director of Enquiries and, if she did not get satisfaction, to call the Ombudsman again. No further call was received.

84/800/22 DEPARTMENT OF SOCIAL SERVICES

This recipient of social assistance had a long list of complaints, none of which were of much substance.

The Ombudsman contacted the District Office Supervisor who agreed to sit down with our complainant and discuss his concerns.

84/800/23 DEPARTMENT OF SOCIAL SERVICES

This man was having difficulty paying his electricity bill.

The Ombudsman was unable to help except to refer him to the Credit Counselling Service of the Community Services Council.

84/800/24 DEPARTMENT OF SOCIAL SERVICES

This recipient of social assistance had an emergency situation, which was met immediately when the Ombudsman called it to the Department's attention.

84/800/25 DEPARTMENT OF SOCIAL SERVICES

In this instance a family in receipt of social assistance was seeking to relocate to a specific area of the Province. Difficulties were being encountered in acquiring living accommodations because of higher rental costs of available premises.

Eventually they were housed with the Department paying the allowable rent as provided by social assistance laws.

84/800/26 DEPARTMENT OF SOCIAL SERVICES

This complainant had applied for transportation assistance to enable him to take his child to another province for medical attention. His application was rejected by the local office and the Regional Administrative Review Committee. However, the Social Assistance Appeal Board ruled in favour of the applicant. In the interim, he had borrowed money from an individual to permit him to keep the medical appointment. His concern now was that the Appeal Board Order would not be carried out.

The Ombudsman received assurance that the Order would be implemented. There had been some delay in confirming expense figures.

84/800/27 DEPARTMENT OF SOCIAL SERVICES

This case involved a cheque which did not turn up on time. It was delayed because of an incorrect postal code.

84/800/28 DEPARTMENT OF SOCIAL SERVICES

A young man who was in full time attendance at university complained that he was refused social assistance.

His complaint was not regarded as justified.

84/800/29 DEPARTMENT OF SOCIAL SERVICES

A lady who lives in a community outside St. John's was receiving $150 weekly from Canada Manpower to attend "upgrading" school in St. John's. She requested that the Department provide cost of transportation to and from school. Her request was denied.

The Ombudsman could not disagree with that decision.

84/800/30 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/31 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

84/800/32 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/33 DEPARTMENT OF SOCIAL SERVICES

A social assistance recipient complained that the amount of a special diabetic allowance on behalf of one of her children was not the total amount entitled to.

The amount was confirmed to be correct.

84/800/34 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/35 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/36 DEPARTMENT OF SOCIAL SERVICES

A worker on an employment project had fears that his pay cheque would be late in arriving. His fears were groundless.

84/800/37 DEPARTMENT OF SOCIAL SERVICES

When assistance was suspended to an unwed mother and two small children because of a suspected "live in" boyfriend (who was employed), the mother complained that it created an emergency situation. She was adamant that the young man did not co-habitate with her.

84/800/37 DEPARTMENT OF SOCIAL SERVICES

(continued)

The Department agreed to re-assess its position.

84/800/38 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

84/800/39 DEPARTMENT OF SOCIAL SERVICES

This was a complaint that full entitlement to social assistance was not being received.

The amount was confirmed as being correct.

84/800/40 DEPARTMENT OF SOCIAL SERVICES

Still under investigation at year end

84/800/41 DEPARTMENT OF SOCIAL SERVICES

A man complained that his daughter was employed by the Department to care for five children of a family in receipt of social assistance and was receiving less pay than the minimum wage law provides.

Inquiry showed that the young lady was not employed by the Department but rather an amount of money was provided by the Department to the father of the children for the purpose of providing him with child care help. The Department was not an employer in that instance.

84/800/42 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/43 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/44 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/45 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/46 DEPARTMENT OF SOCIAL SERVICES

A person awaiting Canada Pension complained that, if he received assistance in the interim, he would have to agree to repay the amount of such assistance.

It was explained that the retroactive aspect of Canada Pension made this necessary.

84/800/47 DEPARTMENT OF SOCIAL SERVICES

Declined - Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act

84/800/48 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

84/800/49 DEPARTMENT OF SOCIAL SERVICES

A lady employed as a housekeeper for a recipient of social assistance mistakenly thought she was employed by the Department.

It was explained to her that she was actually employed by the owner of the house.

84/800/50 DEPARTMENT OF SOCIAL SERVICES

Still under investigation at year end

84/800/51 DEPARTMENT OF SOCIAL SERVICES

This case involved an employee of an institution and a salary and classification dispute.

The matter was being scrutinized by Treasury Board and the union. The Ombudsman declined involvement.

84/1000/1 DEPARTMENT OF HEALTH

In this case a man showed several conflicting dates and years as being his date of birth.

The Ombudsman's attempts to assist him in getting a delayed registration were not successful.

84/1000/2 DEPARTMENT OF HEALTH

This case involved a complaint from a citizen who objected to a unsanitary method of sewage disposal employed by his next door neighbour.

The Ombudsman raised the matter with the Department. The Department had been pursuing this problem and later advised that it had been resolved.

84/1000/3 DEPARTMENT OF HEALTH

A householder who was having problems with a sewerage disposal system complained that the Department of Health should not have approved its installation as the ground was unsuitable.

A Department inspection revealed that the problem was resulting from a broken pipe and that the original approval had been in order.

84/1000/4 DEPARTMENT OF HEALTH

Withdrawn

84/1000/5 DEPARTMENT OF HEALTH

Withdrawn

84/1100/1 DEPARTMENT OF MINES AND ENERGY

This case could not be summarized without divulging the identity of the complainant.

84/1100/2 DEPARTMENT OF MINES AND ENERGY

Withdrawn

84/1200/1 DEPARTMENT OF FOREST RESOURCES AND LANDS

A resident of the Burin Peninsula made application for an area of land which he said had been "in his family" for fifty years. Since he was uanble to produce any title or show any signs of occupancy or improvement on a large part of the land, he was offered a grant to that section only which plainly showed occupancy.

84/1200/2 DEPARTMENT OF FOREST RESOURCES AND LANDS

This case involved a misunderstanding of the terms of a Crown Lands lease. It was cleared up.

84/1200/3 DEPARTMENT OF FOREST RESOURCES AND LANDS

An applicant for a Crown Land cottage lease complained of delay in the processing of his application.

Inquiry through the Department showed that our complainant's application and those of approximately thirty five other people were deferred pending the alignment of the access road with the main highway. Discussion with the Department resulted in this stipulation being waived and processing resumed.

84/1200/4 DEPARTMENT OF FOREST RESOURCES AND LANDS

Still under investigation at year end

84/1200/5 DEPARTMENT OF FOREST RESOURCES AND LANDS

Still under investigation at year end

84/1300/1 DEPARTMENT OF CULTURE, RECREATION AND YOUTH

An employee of an agency within the Department of Culture, Recreation and Youth complained that travel claims should be paid by the Department rather than from the agency's operations budget.

The Ombudsman could see no justification for that argument.

84/1300/2 DEPARTMENT OF CULTURE, RECREATION AND YOUTH

A man complained when his son was not selected to fill a summer park position.

The Ombudsman's inquiry revealed no irregularity.

84/1300/3 DEPARTMENT OF CULTURE, RECREATION AND YOUTH

An employee of the Department complained of delay in receiving a response to correspondence to her Department. The complaint was rectified.

84/1300/4 DEPARTMENT OF CULTURE, RECREATION AND YOUTH

An applicant for a part-time position complained when he was not successful.

The Ombudsman's inquiry revealed that the position was properly filled.

84/1400/2 DEPARTMENT OF FISHERIES

A gentleman who owned a fifty foot pleasure boat complained of unfair discrimination in that he was not permitted to use the Marine Centre for storage this winter.

The Ombudsman's inquiry revealed that the policy of such marine centres is to give first priority to fishing craft and this policy was being rigidly adhered to. The complaint was regarded as not justified.

84/1600/1 DEPARTMENT OF RURAL, AGRICULTURAL AND NORTHERN DEVELOPMENT

A citizen complained that she was not permitted to build a house on a two and a half acre section of land owned by her which was under agricultural "freeze".

The Ombudsman could not assist in this case. It is still government policy that certain designated lands are reserved for agricultural use only.

84/1600/2 DEPARTMENT OF RURAL, AGRICULTURAL AND NORTHERN DEVELOPMENT

Withdrawn

84/1700/1 DEPARTMENT OF TRANSPORTATION

An employee of the Department complained when he was not successful in his application for a permanent position as foreman.

The Ombudsman's inquiries revealed that the number one recommendation of the Public Service Commission received the appointment and there was no indication of any irregularity.

84/1700/2 DEPARTMENT OF TRANSPORTATION

This complaint involved delay in settlement of a claim for damages to a private vehicle allegedly caused by a vehicle owned by the Department.

The Ombudsman was successful in expediting the matter.

84/1700/3 DEPARTMENT OF TRANSPORTATION

A homeowner complained that water running under a highway was damaging his property. Since this was a natural drainage course, according to Section 50 of The Department of Transportation Act, the Department was not liable.

The Ombudsman concurred.

84/1700/4 DEPARTMENT OF TRANSPORTATION

A lady complained that she was required to submit to testing in order to get her driver's licence renewed, after it had not been renewed for more than a year.

This is according to regulations.

84/1700/5 DEPARTMENT OF TRANSPORTATION

Withdrawn

84/1700/6 DEPARTMENT OF TRANSPORTATION

A motorist was notified that he could not renew his licence until traffic fines totalling over one hundred dollars were paid. The traffic offences to which these fines related were not committed by our complainant.

It was found to be an error in tne process of converting to a computerized operation. The matter was quickly adjusted.

84/1700/7 DEPARTMENT OF TRANSPORTATION

Withdrawn

84/1700/8 DEPARTMENT OF TRANSPORTATION

A citizen complained that the Department would not accept his claim for a small window broken in the cap of his pickup truck which he alleged had been broken by a passing snow plow operated by the Department.

It was pointed out to the complainant that, if he could not reach agreement with the Department, his recourse would be through a Court action possibly in Small Claims Court.

84/1700/9 DEPARTMENT OF TRANSPORTATION

Withdrawn

84/1700/10 DEPARTMENT OF TRANSPORTATION

A motorist was having difficulty in getting a refund of an overpayment to the Registrar of Motor Vehicles.

An error was discovered and the matter was quickly resolved.

84/1700/11 DEPARTMENT OF TRANSPORTATION

A seasonal employee complained that he had been laid off while others with less seniority were retained.

84/1700/11 DEPARTMENT OF TRANSPORTATION

(continued)

It was learned that those who had been retained were involved in short term capital projects.

84/1700/12 DEPARTMENT OF TRANSPORTATION

A resident of a small community complained that there was no yellow centre line in the road through the community.

The question of road improvements and other capital projects are outside the Ombudsman's jurisdiction. Our complainant was advised to contact his elected Member.

84/1700/13 DEPARTMENT OF TRANSPORTATION

A seasonal employee complained that because he had not been employed for a period in excess of eighteen months his seniority had been "broken". He had taken another job and was not available for recall.

It was learned that this was according to the working agreement and the Ombudsman could not help.

84/1700/14 DEPARTMENT OF TRANSPORTATION

A sixty five year old man complained when he was required to provide a certificate of fitness in order to have his licence renewed.

It was learned that this policy had been introduced in 1977 and the authority to require such a certificate is provided

84/1700/14 DEPARTMENT OF TRANSPORTATION

(continued)

by Section 48(6)(b) of The Highway Traffic Act. The complaint could not be regarded as justified.

84/1700/15 DEPARTMENT OF TRANSPORTATION

Still under investigation at year end

84/1700/16 DEPARTMENT OF TRANSPORTATION

An employee of the Department expressed his frustration at his lack of promotion after a number of years of service.

It was pointed out to the complainant that there are well established procedures both for the recruiting of new employees in the Public Service and the promotion by internal competition of present employees. The Public Service Commission makes the candidate evaluation in each case and makes recommendations in order of merit to the Department concerned as to their choice of candidate for a given position.

It is not the function of the Ombudsman's Office to substitute its judgment for that of the Public Service Commission. There was no indication that the employee had been unfairly treated.

84/1700/17 DEPARTMENT OF TRANSPORTATION

Withdrawn

84/1700/18 DEPARTMENT OF TRANSPORTATION

A citizen complained of delay in receiving his driver's licence.

The matter was quickly resolved.

84/1700/19 DEPARTMENT OF TRANSPORTATION

Withdrawn

84/1700/20 DEPARTMENT OF TRANSPORTATION

Withdrawn

84/1800/1 DEPARTMENT OF PUBLIC WORKS AND SERVICES

A security guard with the Department complained that, having undertaken the "Certification Program", he was not awarded the agreed upon pay increase with the same degree of retroactivity as enjoyed by some of his fellow workers.

His complaint was found to be without justification since it was determined that the proper implementation had been followed.

84/1800/2 DEPARTMENT OF PUBLIC WORKS AND SERVICES

This complaint involved a minor misunderstanding by a resident of Gros Morne National Park regarding an expropriation matter.

84/1800/2 DEPARTMENT OF PUBLIC WORKS AND SERVICES

(continued)

It was clarified.

84/1800/3 DEPARTMENT OF PUBLIC WORKS AND SERVICES

Withdrawn

84/1800/4 DEPARTMENT OF PUBLIC WORKS AND SERVICES

A former employee of the Department felt he was not receiving his full entitlement under the disability provisions of the Government insurance contract with National Life Assurance Company of Canada.

The Ombudsman's inquiries did not disclose anything that could support the complainant's contention.

84/1800/5 DEPARTMENT OF PUBLIC WORKS AND SERVICES

The complainant in this case was not satisfied with the amount of compensation offered for expropriated land.

The Ombudsman could only suggest the matter be pursued through a Board of Arbitration as provided by law.

84/1800/6 DEPARTMENT OF PUBLIC WORKS AND SERVICES

In 1973 this complainant had reached agreement concerning compensation for acquisition of his residential property in Gros Morne National Park. Subsequent events lead him to conclude he had not received just treatment.

In the circumstances there was no assistance possible from the Ombudsman's Office.

84/1800/7 DEPARTMENT OF PUBLIC WORKS AND SERVICES

This complaint concerned alleged inequities caused by application of the redundancy policy.

The Ombudsman could not agree with the complainant's view.

84/1900/1 DEPARTMENT OF MUNICIPAL AFFAIRS

A resident of a Central Newfoundland community claimed for damages under the Flood Assistance Program. He refused to accept the damage assessment of the Department assessors. An independent assessor was engaged whose assessment was also rejected by our complainant.

The Ombudsman was satisfied that the Flood Assistance Policy had been properly carried out in this case.

84/1900/2 DEPARTMENT OF MUNICIPAL AFFAIRS

An applicant for assistance under the Flood Assistance Program disputed an assessment of damage done to her property because of "blasting" of ice in an adjacent waterway. She said she would accept the figures if she were provided with a copy of the estimate which had been compiled by an engineering firm.

The Ombudsman recommended that the document be provided and it was. Our complainant was satisfied.

84/1900/3 DEPARTMENT OF MUNICIPAL AFFAIRS

A number of residents of an area of St. John's complained that in 1982 when the Department installed a water transmission main adjacent to their properties, it had the effect of "drying up" their wells. Without admitting any liability, the Department with the assistance of the St. John's Municipal Council, arranged for temporary water supplies during shortage periods in the summers of 1983 and 1984. The residents concerned were pressing for a permanent solution to their problem.

The Ombudsman's inquiry revealed that the Department had proposed a solution to the City and were awaiting reaction.

84/1900/4 DEPARTMENT OF MUNICIPAL AFFAIRS

A resident of a small community complained that he was not permitted to build a house on "his own land".

The Ombudsman's inquiries revealed that the Division of Development Control had refused to issue a permit and our complainant had ignored the refusal and also ignored a subsequent Court order to stop construction. In the circumstances the Ombudsman could offer no assistance.

84/NLHC/1 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A contractor complained that, after his unsatisfactory performance on a number of small contracts, the Corporation withheld 10% "hold-backs" in a number of cases.

The Corporation offered what the Ombudsman regarded as satisfactory justification.

84/NLHC/2 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

This complainant had a contractor build a house through a Newfoundland and Labrador Housing Corporation mortgage. A number of defects were now appearing. The complainant felt that the Corporation should rectify these.

There was no basis on which the Ombudsman could make a recommendation on behalf of the citizen.

84/NLHC/3 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

The complainant in this case felt that the Corporation was wrong in stating that his mortgage payments were in arrears.

The Ombudsman's investigation revealed that there was, in fact, arrears. The Corporation had offered to place the mortgage under the Rural and Remote Housing Program which would allow additional subsidy and payments adjusted annually relative to his income.

84/NLHC/3 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

(continued)

That solution appeared quite satisfactory to the Ombudsman. He suggested to the complainant that it would be to his benefit to accept that solution. He agreed and made the necessary arrangements with Newfoundland and Labrador Housing Corporation.

84/NLHC/4 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A tenant of Newfoundland and Labrador Housing Corporation had to vacate his apartment due to fire damage. He was concerned that he would not be assigned another unit.

His complaint would appear to have been a bit premature as, on contacting Newfoundland and Labrador Housing Corporation, the Ombudsman's Office learned he had already been selected for a unit.

84/NLHC/5 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A citizen requested the assistance of the Ombudsman in obtaining subsidized rental accommodation.

The Ombudsman's Office does not become involved in the routine selection of Newfoundland and Labrador Housing Corporation tenants.

84/NLHC/6 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Withdrawn

84/NLHC/7 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

This complaint involved a misunderstanding as to the status of a mortgage account.

It was clarified.

84/NLHC/8 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/9 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A citizen complained that his mortgage with the Corporation had been renewed for a five year term ignoring his written request by mail for a one year term.

Contact with Newfoundland and Labrador Housing Corporation showed that it had not received any such request and, as the agreement allows, a five year term was set.

The Ombudsman could not disagree with the action taken by Newfoundland and Labrador Housing Corporation. The complainant, of course, could seek refinancing through another lending agency.

84/NLHC/10 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

This case concerned proposed rent increases to tenants of Newfoundland and Labrador Housing Corporation.

Such matters do not fall within the purview of the Ombudsman's Office.

84/NLHC/11 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/12 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A tenant of Newfoundland and Labrador Housing Corporation had been given notice to vacate the premises he was occupying. He complained to the Ombudsman of what he regarded as unjust treatment.

The matter was discussed with the Corporation. There would seem to be no doubt that the action taken was in order. However, arrangements were made for the tenant to meet with the appropriate official of the Corporation to see if the problem could be otherwise worked out.

84/NLHC/13 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/14 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/15 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/16 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/17 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

An applicant for a residential mortgage felt he was unfairly treated when his application was rejected by Newfoundland and Labrador Housing Corporation.

Having inquired into the matter, there was no basis on which the Ombudsman could disagree with the Corporation's decision. The applicant had already established a less than favourable payment record with Newfoundland and Labrador Housing Corporation in respect of another premises.

84/NLHC/18 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/19 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A tenant of Newfoundland and Labrador Housing Corporation, who occupied an upper story apartment, had requested to be located to a ground level unit because of his wife's difficulty in using stairways due to her medical condition.

In discussing this with Newfoundland and Labrador Housing Corporation it was evident that everything possible was being done to try and find more suitable accommodations for the complainant at the earliest possible date.

84/NLHC/20 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Withdrawn

84/NLHC/21 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/22 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/2

84/NLHC/23 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/24 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

This complaint from a tenant of Newfoundland and Labrador Housing Corporation concerned problems such as furnace malfunctioning, leaky windows and basement flooding.

Contact with the Corporation showed that efforts were being made to rectify the problems. A senior official would meet with the tenant to fully discuss the matter.

84/NLHC/25 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/26 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/27 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

An applicant for a housing unit in a particular community complained that her chances of obtaining a residence were diminished because the Corporation would only consider her for a four bedroom unit because of the family size. She was prepared to accept a three bedroom unit.

In the circumstances the Ombudsman could not disagree with the Corporation's decision.

84/NLHC/28 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Withdrawn

84/NLHC/29 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/30 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Withdrawn

84/NLHC/31 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

An employee of I.O.C. at Labrador City complained that he had been informed by an officer of Newfoundland and Labrador Housing Corporation that the amount of rental for his apartment during a period of strike would be reduced but he was later required to pay all arrears.

The Corporation produced copies of registered letters which had been sent to our complainant which stated clearly that all tenants would be totally responsible for rentals. The complaint was thus regarded as unsupported.

84/NLHC/32 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

The purchaser of a home from the Corporation complained that, when he moved into the home in question, there was a commitment from the Corporation to correct a serious problem of water in the basement. Since a year had passed and the problem had not been corrected, our complainant was becoming impatient.

The matter was referred to the Corporation and satisfactorily resolved.

84/NLHC/33 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

An applicant for a loan under the Rural and Remote Rehabilitation Assistance Program complained when his application was not approved.

Having inquired into the matter there was no basis on which the Ombudsman could disagree with the Corporation's position in the matter.

84/NLHC/34 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 84/NLHC/5

84/NLHC/35 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A citizen had his house repaired under the Rural and Remote Rehabilitation Assistance Program. He contended that a number of deficiencies in the work were now evident and felt that Newfoundland and Labrador Housing Corporation should rectify them.

There was no basis on which the Ombudsman could support the complainant.

84/WCB/1 WORKERS' COMPENSATION COMMISSION

This person complained when his Workers' Compensation benefits were discontinued.

Based upon the evidence in the claimant's file, the Ombudsman could make no recommendation in his favour.

84/WCB/2 WORKERS' COMPENSATION COMMISSION

This complaint involved discontinuation of payment of Workers' Compensation.

An examination of the file provided no basis for a recommendation by the Ombudsman.

84/WCB/3 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/2

84/WCB/4 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/1

84/WCB/5 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/6 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/1

84/WCB/7 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/1

84/WCB/8 WORKERS' COMPENSATION COMMISSION

A compensation claimant complained that his benefits were discontinued during a two month period when he was receiving physiotherapy and not regarded as being under active medical treatment.

The Board reconsidered this case and, rendering benefit of the doubt, decided to reverse their decision and pay compensation for the period in question.

84/WCB/9 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/10 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/11 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/12 WORKERS' COMPENSATION COMMISSION

This worker felt that an error might have been made in computing his permanent partial disability award.

Inquiry showed that no such error had occurred.

84/WCB/13 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/1

84/WCB/14 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/15 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/16 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/17 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/1

84/WCB/18 WORKERS' COMPENSATION COMMISSION

A claimant felt that he was unjustly treated by having his compensation benefits suspended.

The Ombudsman concluded that, in his opinion, the claim had been properly dealt with by the Commission. Based upon medical evidence, further payments were not justified.

84/WCB/19 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/1

84/WCB/20 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/21 WORKERS' COMPENSATION COMMISSION

Delay in reaching a decision in respect of a worker's injury claim was the basis of this complaint.

Having inquired into the matter, the Ombudsman could not conclude that there was inordinate delay.

84/WCB/22 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/1

84/WCB/23 WORKERS' COMPENSATION COMMISSION

Still under investigation

84/WCB/24 WORKERS' COMPENSATION COMMISSION

Not completed at year end

84/WCB/25 WORKERS' COMPENSATION COMMISSION

This worker's claim for compensation was rejected.

There was no medical evidence on which the Ombudsman could support a recommendation on behalf of the complainant.

84/WCB/26 WORKERS' COMPENSATION COMMISSION

A worker felt continued entitlement to full disability benefits.

Again, the medical evidence could not substantiate a recommendation on his behalf.

84/WCB/27 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/25

84/WCB/28 WORKERS' COMPENSATION COMMISSION

Same as 84/WCB/25

84/WCB/29 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/30 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/31 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/32 WORKERS' COMPENSATION COMMISSION

A worker who was receiving a permanent partial disability award felt he was not being assisted to the proper extent with rehabilitation.

On contacting the Board, it was learned that the claimant had now decided to return to his former employment.

84/WCB/33 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/34 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/35 WORKERS' COMPENSATION COMMISSION

A workman complained that he had suffered an injury in 1971 and now had a recurrance. There was no record of any claim having been made, the employer had no record, and the workman himself could not substantiate the fact that he had received benefits in 1971 for a work related accident.

No assistance was possible.

84/WCB/36 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/37 WORKERS' COMPENSATION COMMISSION

Not completed at year end

84/WCB/38 WORKERS' COMPENSATION COMMISSION

Withdrawn

84/WCB/39 WORKERS' COMPENSATION COMMISSION

Not completed at year end

84/WCB/40 WORKERS' COMPENSATION COMMISSION

Not completed at year end

84/WCB/41 WORKERS' COMPENSATION COMMISSION

Not completed at year end

84/FLB/1 FISHERIES LOAN BOARD

A fisherman for whom the Fisheries Loan Board had financed a thirty seven foot fibreglass craft complained that the craft was "not seaworthy" despite the fact that it had been passed by Federal authorities. For this reason, he withheld payments required by his agreement of purchase.

Contact with the Board revealed that collection efforts were being suspended pending the result of a Federal review of the question of "seaworthiness."

84/FLB/2 FISHERIES LOAN BOARD

A fisherman, who had a boat engine financed by the Fisheries Loan Board, wished the Board to "take back" his engine because he had become ill and could not use it.

The Ombudsman's inquiry revealed that, in ordinary circumstances, our complainant would be responsible for any deficit after the repossession and re-sale of the engine however, if medical evidence could be produced to indicate inability to participate in the fishery, such deficit could be "written off".

84/FLB/3 FISHERIES LOAN BOARD

A client of the Fisheries Loan Board complained that he could not get an answer to an inquiry he had directed to the Board.

84/FLB/3 FISHERIES LOAN BOARD

(continued)

The matter was quickly resolved.

84/FLB/4 FISHERIES LOAN BOARD

A client of Fisheries Loan Board was summoned for a debt due. He requested intervention by the Ombudsman.

The Ombudsman declined.

84/MCP/1 MEDICAL CARE COMMISSION

A person who had lived in Newfoundland, after moving to British Columbia, required medical attention. She complained that the Newfoundland Medicare Commission would not pay the total account rendered by British Columbia physicians.

It was confirmed that claims to Newfoundland Medicare are paid according to their schedule of payment and may differ from other parts of the country.

84/MCP/2 MEDICAL CARE COMMISSION

A citizen complained that Medicare would not pay for dental extractions in a dentist's office.

The policy was confirmed as being correct.

84/MCP/3 MEDICAL CARE COMMISSION

Withdrawn

84/NFP/1 NEWFOUNDLAND FARM PRODUCTS

A former employee of Newfoundland Farm Products complained of delay in obtaining a refund of his pension contributions.

Contact with the Corporation indicated that a cheque for the amount would be available in two days.

84/NLC/1 NEWFOUNDLAND LIQUOR CORPORATION

Withdrawn

84/NLLB/1 NEWFOUNDLAND LIQUOR LICENCING BOARD

A resident of a community complained that her application for a licence to dispense alcoholic beverages was meeting with stiff opposition from religious factions in the community. She inquired as to her rights in this regard.

The Ombudsman responded that she had:
(1) the right to apply for a licence to sell liquor; (2) the right to have her application fully considered by the Liquor Licencing Board; and (3) the right to know the reason, if her application was denied.

84/PPC/1 PIPPY PARK COMMISSION

Declined

84/PSC/1 PUBLIC SERVICE COMMISSION

Withdrawn

84/PSC/2 PUBLIC SERVICE COMMISSION

An unsuccessful applicant for a temporary public service position complained that a less qualified person was selected to fill the position.

The Ombudsman could find nothing to indicate that such was the case.

84/PUB/1 PUBLIC UTILITIES BOARD

An applicant for a licence under The Motor Carrier Act complained of delay in getting a hearing.

Contact with the Board indicated that a date would be set as soon as the schedule permitted.

84/WH/1 WATERFORD HOSPITAL

A patient of the Waterford Hospital who had been committed to that institution by the Court complained that he had been "unjustly incarcerated".

84/WH/1 WATERFORD HOSPITAL

(continued)

The Ombudsman explained that he has no jurisdiction over the Courts and advised our complainant to pursue the matter through the Mental Health Review Committee.

84/WH/2 WATERFORD HOSPITAL

This complaint against the Waterford Hospital was made by telephone from a person who claimed to be an "out patient". The person was invited to write this office. He declined, stating that he did not wish anything "on the record".

84/FOI/1 FREEDOM OF INFORMATION

A lawyer, on behalf of his client, a Workers' Compensation claimant, requested the Workers' Compensation Board of Newfoundland to permit him, under The Freedom of Information Act to view the Claims Adjudication Manual of Ontario, which was in possession of the Newfoundland Board. His request was denied. As provided by The Freedom of Information Act, he referred the matter to the Ombudsman.

It was indicated that the manual in the possession of the Newfoundland Workers' Compensation Commission had been provided prior to the initiation of the Ontario policy of making these manuals available to the public and it was thought that the manual in question was outdated. The

current Ontario manual is published by that Board and is available upon request from that Board. Additionally, the solicitor had been referred to the publication by the Workers' Compensation Commission, which fulfills the requirement of The Freedom of Information Act.

The Ombudsman agreed with the decision of Workers' Compensation Commission.

SOURCE OF COMPLAINTS BY COMMUNITY

AND NUMBER OF COMPLAINTS FROM EACH

1984

APPENDIX I

SOURCE OF COMPLAINTS BY COMMUNITY AND NUMBER OF COMPLAINTS FROM EACH

Aguathuna	1
Arnold's Cove	1
Aspen Cove, Notre Dame Bay	1
Avondale, Conception Bay	1
Badger	2
Bauline	1
Bay Bulls	1
Bay Roberts	2
Bell Island	7
Birchy Bay, Notre Dame Bay	1
Bishops Falls	5
Bloomfield, Bonavista Bay	1
Bonne Bay	1
Botwood	4
Brigus, Conception Bay	1
Bristol's Hope	1
Broad Cove, Conception Bay	1
Brown's Arm	1
Bunyan's Cove, Bonavista Bay	1
Burin	1
Burlington, Green Bay	1
Burnside, Bonavista Bay	1
Cape Broyle	1
Carbonear	5
Carmanville	1
Catalina, Trinity Bay	6
Cavendish, Trinity Bay	1
Centreville, Bonavista Bay	1
Change Islands	1
Charletown, Bonavista Bay	1
Clarenville	3
Clarkes Beach	1
Cobb's Arm, Notre Dame Bay	1
Codroy Valley	1
Coley's Point, Bay Roberts	1
Colliers, Conception Bay	2
Cook's Harbour	1
Corner Brook	9
Dover, Bonavista Bay	1
Duntara, Bonavista Bay	1

SOURCE OF COMPLAINTS BY COMMUNITY AND NUMBER OF COMPLAINTS FROM EACH

Eddy's Cove East	1
Embree	1
Ferryland	1
Flatrock	1
Fortune, Fortune Bay	4
Fox Cove	1
Foxtrap, Conception Bay	2
Freshwater, Placentia Bay	1
Gambo	1
Gander	7
Gaultois	1
Gayside, Trinity Bay	1
Glenwood	1
Glovertown	4
Goulds	1
Grand Bank	2
Grand Falls	5
Grand LePierre, Fortune Bay	1
Hant's Harbour, Trinity Bay	1
Harbour Breton, Fortune Bay	2
Harbour Grace	5
Harbour Main, Conception Bay	1
Hare Bay, Bonavista Bay	2
Haricott, Bonavista Bay	2
Heart's Content, Trinity Bay	1
Heart's Delight, Trinity Bay	1
Hermitage	2
Hickman's Harbour	2
Hillview, Trinity Bay	2
Holyrood	2
Hopeall, Trinity Bay	2
Ivany's Cove, Trinity Bay	1
Jackson's Arm, White Bay	1
Jackson's Cove, Green Bay	1
Jacques Fontaine, Fortune Bay	1
Jamestown	1
Job's Cove, Conception Bay	2

SOURCE OF COMPLAINTS BY COMMUNITY AND NUMBER OF COMPLAINTS FROM EACH

Kelligrews, Conception Bay	5
Kilbride	6
King's Cove, Bonavista Bay	1
Kippens, Stephenville	1
Labrador City	4
Lamaline	1
Lawn, Placentia Bay	1
Leading Tickles	1
Lewin's Cove, Placentia Bay	1
Lewisporte	4
Long Beach	1
Long Pond, Manuels	1
Lower Lance Cove, Random Island	1
Manuels, Conception Bay	2
Marystown	8
Marysvale, Conception Bay	1
Meadows	1
Melrose, Trinity Bay	1
Mount Carmel	1
Mount Pearl	14
New Chelsea, Trinity Bay	1
Newtown	1
Norris Point	1
Northwest Brook, Trinity Bay	1
O'Donnels, St. Mary's Bay	2
Old Perlican, Trinity Bay	2
Open Hall, Bonavista Bay	1
Outer Cove	1
Paradise, Conception Bay	7
Parker's Cove	1
Parsons Pond	2
Patrick's Cove, Placentia	1
Petley	1
Petty Harbour	2
Placentia	4
Point Verde, Placentia	1
Port au Port East	1
Port aux Basques	5
Port aux Choix	1
Port de Grave	1
Portugal Cove	3

SOURCE OF COMPLAINTS BY COMMUNITY AND NUMBER OF COMPLAINTS FROM EACH

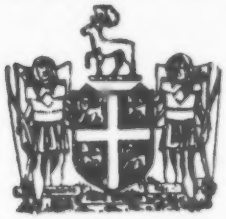
Renews	1
Roberts Arm, Green Bay	1
Rocky Harbour	2
Shearstown, Conception Bay	1
Ship Harbour	1
Sop's Arm	1
South Branch	1
Spaniard's Bay	1
Springdale	2
St. Albans	3
St. Anthony	1
St. Brendan's, Bonavista Bay	1
St. Bride's, St. Mary's Bay	2
St. David's	1
Stephenville	4
St. John's	138
St. Joseph's, St. Mary's Bay	1
St. Lawrence	4
St. Mary's	1
Swift Current	1
Tilton, Conception Bay	1
Torbay	3
Townside, Placentia	1
Trepassey	4
Twillingate	1
Upper Island Cove	1
Victoria, Conception Bay	1
Wabush	3
Western Bay, C. Bay	2
Western Point, Winterton	1
Westport, White Bay	1
Whitbourne	1
Windsor	3

OTHER PROVINCES

Clinton, Ontario	1
New Brunswick	1
Oshawa, Ontario	1
Ottawa, Ontario	1
Prince Rupert, British Columbia	1
Surrey, British Columbia	1

THE PARLIAMENTARY COMMISSIONER (OMBJDSMAN) ACT

APPENDIX II



THE REVISED STATUTES OF NEWFOUNDLAND, 1970.

CHAPTER 285

An Act to Provide for the Appointment of a Parliamentary Commissioner to Investigate Administrative Decisions and Acts of Officials of the Government of the Province and its Agencies and to Define the Parliamentary Commissioner's Powers, Duties and Functions.

Short title.

1. This Act may be cited as The Parliamentary Commissioner (Ombudsman) Act.

Interpretation.

2.—(1) In this Act

(a) "agency" means any agency of Her Majesty or of Her Majesty's Government and includes The Workmen's Compensation Board referred to in The Workmen's Compensation Act, and, subject to subsection (2) of this Section 2, any body deemed to be an agency for the purposes of this Act by order of the Lieutenant-Governor in Council upon the recommendation of the House of Assembly;

(b) "Commissioner" means the Parliamentary Commissioner appointed under this Act;

(c) "Department" means any department of the Government of the province;

(d) "Her Majesty" means Her Majesty in right of the province; and

(e) "Minister" means any of Her Majesty's Ministers.

When Lieutenant-Governor may make an order deeming any body an agency for the purposes of this Act.

(2) The Lieutenant-Governor in Council may, while the House of Assembly is not in Session, make an order deeming any body specified in the order to be an agency for the purposes of this Act, but if such order is not confirmed by the House of Assembly within one month after the commencement of the next ensuing regular Session thereof, such order ceases to have any force and effect.

Administration.

3. The Minister of Justice is charged with the administration of this Act.

Appointment of Parliamentary Commissioner.

4.—(1) There shall be appointed, as an officer of the Legislature of the province, a commissioner for investigations to be called the Parliamentary Commissioner.

Idem.

(2) Subject to Section 8, the Lieutenant-Governor in Council shall appoint the Commissioner on the recommendation of the House of Assembly.

Commissioner not a civil servant or an employee of the province for pension purposes.

(3) No person shall be deemed to be

(a) a civil servant for the purposes of The Civil Service Act; or

(b) an employee for the purposes of The Public Service (Pensions) Act,

by reason of his appointment as Commissioner.

Restriction as to holding other offices.

5. The Commissioner may not be a member of the House of Assembly and shall not hold any office of trust or profit, other than his office as Commissioner, or engage in any occupation for regard outside the duties of his office.

Tenure of office of Commissioner.

6.—(1) Unless his office sooner becomes vacant, a person appointed as Commissioner holds office for ten years

(a) from the date of his appointment under Section 4; or

(b) from the date of his appointment under Section 8 is confirmed under that section,

and any person, if otherwise qualified, may be reappointed as Commissioner.

Resignation of Commissioner.

(2) The Commissioner may at any time resign his office by writing addressed to the Speaker of the House of Assembly or to the Premier of the province if there is no Speaker or if the Speaker is absent from the province.

Commissioner not to serve after reaching the age of seventy.

(3) A person shall not, unless the Lieutenant-Governor in Council otherwise directs, hold office as Commissioner beyond the day on which he attains the age of seventy years.

Suspension or removal from office.

7.—(1) On the recommendation of the House of Assembly, the Lieutenant-Governor in Council may, at any time, suspend or remove the Commissioner from his office for disability, neglect of duty, misconduct or bankruptcy.

Idem; where House of Assembly not in Session.

(2) At any time the Legislature is not in Session, the Lieutenant-Governor in Council may suspend the Commissioner from his office for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant-Governor in Council, but the suspension shall not continue in force beyond the end of the next ensuing Session of the Legislature.

Vacancy in office.

8.—(1) If the Commissioner dies, retires, resigns or is removed from office, the vacancy thereby created shall be filled in accordance with this section.

Idem.

(2) If any vacancy referred to in subsection (1) occurs while the Legislature is in Session, but no recommendation is made by the House of Assembly before the close of that Session, subsection (3) applies as if that vacancy had occurred while the Legislature was not in Session.

Idem.

(3) If any vacancy referred to in subsection (1) occurs while the Legislature is not in Session, the Lieutenant-Governor in Council may appoint a Commissioner to fill the vacancy and, unless his office sooner becomes vacant, the person so appointed holds office until his appointment is confirmed by the House of Assembly.

Idem.

(4) If an appointment under subsection (3) is not confirmed within two months after the commencement of the next ensuing regular Session of the House of Assembly, the appointment lapses and there shall be deemed to be another vacancy in the office of Commissioner.

Salary of Commissioner.

9.—(1) The Commissioner shall be paid, by monthly instalments, an annual salary of twenty thousand dollars ($20,000.00).

Expenses of Commissioner.

(2) There shall be paid to the Commissioner in respect of time spent in travelling in the exercise of his functions, such travelling allowances and expenses as may be prescribed by the Lieutenant-Governor in Council.

Payments under this section to come from Consolidated Revenue Fund.

(3) Any payments paid under this section shall be chargeable to and paid out of the Consolidated Revenue Fund.

Oath of office to be taken by Commissioner.

10.—(1) Before entering upon his duties, the Commissioner shall take and subscribe the following oath of office:

> "I, ...
> or in the
> Province of Newfoundland, ...,
> do solemnly swear that I will faithfully, truly, impartially, honestly, justly and to the best of my judgment, skill and ability, execute and perform the powers, duties and functions reposed in or required of me as Parliamentary Commissioner under The Parliamentary Commissioner (Ombudsman) Act, as now or hereafter amended, and that I will not, except in accordance with subsection (2) of Section 22 of the said Act or otherwise to give effect to the said Act, divulge any information received by me in the execution and performance of my powers, duties and functions under the said Act. So help me God."

Administration of oath.

(2) The oath referred to in subsection (1) shall be administered by the Speaker of the House of Assembly or by the Clerk of the House of Assembly.

Staff of Commissioner.

11.—(1) Subject to the provisions of this section, the Commissioner may appoint such officers and other employees as

may be necessary for the efficient carrying out of his powers, duties and functions under this Act.

Number of staff.

(2) The number of persons that may be appointed under this section, whether generally or in respect of any specified duties or functions or class of duties or functions, shall from time to time be determined by the Lieutenant-Governor in Council.

Remuneration and terms of service.

(3) The Lieutenant-Governor in Council shall fix the remuneration and terms of service and prescribe the duties and functions of the persons appointed under this section, and such persons shall be paid for their services by the Minister of Finance under the provisions of Section 33.

Status of employees.

(4) Subject to Section 13, an officer or other employee employed under the provisions of this section does not become, by reason of such employment, an officer or employee of Her Majesty.

Oath to be taken by members of staff.

(5) Every person appointed under this section shall, before commencing to perform his duties and functions under this Act, take and subscribe the following oath:

"I,
of in the
Province of Newfoundland,
do solemnly swear that I will faithfully, truly, impartially, honestly, justly and to the best of my judgment, skill and ability, execute and perform the duties required of me as under The Parliamentary Commissioner (Ombudsman) Act, as now or hereafter amended, and that I will not, except for the purpose of giving effect to the said Act, divulge any information received by me in the execution and performance of my duties under the said Act. So help me God.".

Administration of oath.

(6) The oath referred to in subsection (5) shall be administered by the Commissioner.

Pension for Commissioner.

12.—(1) When the Commissioner ceases to perform his duties aftre having performed them for not less than ten years or, subject to subsection (3) of this Section 12, upon ceasing to hold

office by virtue of subsection (3) of Section 6 or upon resignation before the expiration of such period by reason of a permanent disability preventing him from usefully performing his duties, he shall be entitled to, and be paid, an annual pension equal to one-third of the salary that he was receiving when he ceased to perform his duties.

Idem.

(2) If the Commissioner ceases to perform his duties after having performed them for not less than twenty years or upon ceasing to hold office by virtue of subsection (3) of Section 6 or upon resignation during a second ten-year term by reason of a disability referred to in subsection (1), he shall be entitled to, and be paid, an annual pension equal to two-thirds of the salary that he was receiving when he ceased to perform his duties.

Disability must be established to satisfaction of Speaker.

(3) The disability referred to in subsection (1) must be established to the satisfaction of the Speaker of the House of Assembly.

Pension to widow.

(4) From the first day of the month following the death of the Commissioner, whether in office or retired, there shall be paid to his widow, during widowhood, an annual pension, payable monthly, equal to one-half of the pension which he was receiving or to which he would have been entitled had he been retired.

Payment of pension out of Consolidated Revenue Fund.

(5) Subject to the other provisions of this section, the pensions referred to in this section shall be for life, and they shall be paid out of the Consolidated Revenue Fund in equal monthly instalments and shall be inalienable and unseizable.

Suspension of payment

(6) The payment of a pension under this section to a person who has already been Commissioner shall cease if and while the beneficiary holds temporarily or permanently a position, office or employment to which is attached a remuneration paid by the Government of the province or by an agency, corporation, commission, board or other body under the jurisdiction of the Government.

Pensions of employees appointed under Section 11.

13. Unless the Lieutenant-Governor in Council otherwise by order directs in the case of any person or persons specified in the order, the provisions of The Public Service (Pensions) Act

shall apply to every person appointed under Section 11 as if he were an employee of the Government of Newfoundland and, subject to the exceptions and conditions prescribed in that Act, every such person shall pay contributions to and participate in the pension plan established by that Act.

Duties and functions of Commissioner.

14. (1) Subject to Section 15, the principal duty and function of the Commissioner shall be to investigate any decision or recommendation made, including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any Department or agency, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment.

Initiation of investigation.

(2) The Commissioner may make any investigation referred to in subsection (1) either on a complaint made to him by any person or of his own motion, and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission as mentioned in subsection (1).

Exexrcise of Commissioner's powers not impeded.

(3) The powers and duties conferred on the Commissioner by this Act may be exercised and performed notwithstanding any provision in any Act to the effect that

(a) any decision, recommendation, act or omission mentioned in subsection (1) is final;

(b) no appeal lies in respect thereof; or

(c) no proceeding or decision of the body or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

Committee of House of Assembly may refer matters to Commissioner.

(4) Without limiting the generality of subsection (1), any committee of the House of Assembly may, with the permission of the House of Assembly, refer to the Commissioner, for investigation and report by him, any petition that is before that committee for consideration or any matter to which the petition relates, and, in that case, the Commissioner shall,

(a) subject to any special directions of the committee, investigate the matters so referred to him so far as such matters are within his jurisdiction; and

(b) make such report to the committee as he thinks fit,

but nothing in Section 17, 23 or 24 applies in respect of any investigation or report made under this subsection.

Jurisdiction restricted.

15.—(1) Nothing in this Act authorizes the Commissioner to investigate

(a) any decision, recommendation, act or omission in respect of which there is under any Act a right of appeal or objection or a right to apply for a review on the merits of the case to any court or to any tribunal constituted by or under any Act, until after that right of appeal or objection or application has been exercised in the particular case or until after the time prescribed for the exercise of that right has expired; or

(b) any decision, recommendation, act or omission of any person acting as a solicitor for the Crown or acting as counsel for the Crown in relation to any proceedings.

Commissioner may apply to Supreme Court for declaratory order.

(2) If any question arises as to whether the Commissioner has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Supreme Court of Newfoundland for a declaratory order determining the question.

Complaints to Commissioner

16.—(1) Every complaint to the Commissioner shall be made or taken down in writing.

Complaints from persons in custody or in certain hospitals.

(2) Notwithstanding any other Act, where a letter written by or in behalf of

(a) any person in custody on a charge or after conviction of an offence; or

(b) any patient of a hospital as defined in subsection (3)

is addressed to the Commissioner, it shall be immediately forwarded, unopened, to the Commissioner by the person for the time being in charge of the place or institution where the complainant is detained or of which he is a patient.

Definition.

(3) For the purposes of subsection (2), "hospital" means the Hospital for Mental and Nervous Diseases, St. John's, and includes any other hospital designated by the Minister of Health, with the consent of the authority operating the hospital, as a hospital for the purposes of Part IX of The Health and Public Welfare Act.

Commissioner may refuse to investigate a complaint.

17. (1) If, in the course of the investigation of any complaint, it appears to the Commissioner

(a) that under the law or existing administrative practice there is an adequate remedy, other than the right to petition the Legislature, for the complainant, whether or not he has availed himself of it; or

(b) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

he may in his discretion refuse to investigate the matter further.

Idem.

(2) The Commissioner may, in his discretion, refuse to investigate or cease to investigate any complaint

(a) if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Commissioner; or

(b) if, in his opinion,

(i) the subject matter of the complaint is trivial,

(ii) the complaint is frivolous or vexatious or is not made in good faith, or

(iii) the complainant has not a sufficient personal interest in the subject matter of the complaint.

Complanant to be informed if Commissioner decides not to investigate a complaint.

(3) Where the Commissioner decides not to investigate or decides to cease to investigate a complaint, he shall inform the complainant of his decision and state his reasons therefor.

Notice of investigation.

18.—(1) Before investigating any matter under this Act, the Commissioner shall inform the Deputy Minister of the Department or the administrative head of the agency affected, as the case may be, of his intention to make the investigaation.

Consultation with Minister concerned.

(2) The Commissioner may, in his discretion at any time during or after an investigation, consult any Minister who is concerned in the matter of the investigation.

Idem.

(3) On the request of any Minister in relation to an investigation or in any case where an investigation relates to any recommendation made to a Minister, the Commissioner shall consult that Minister after making the investigation and before forming a final opinion on any of the matters referred to in subsection (1) or (2) of Section 23.

Reference to Deputy Minister concerned.

(4) If, during or after an investigation, the Commissioner is of opinion that there is evidence of any breach of duty or misconduct on the part of any officer or employee of any Department or agency, he shall refer the matter to the Deputy Minister of the Department or the administrative head of the agency, as the case may be.

Conduct of investigation.

19.—(1) Every investigation by the Commissioner under this Act shall be conducted in private.

Idem.

(2) The Commissioner may hear or obtain information from such persons as he thinks fit and he may make such inquiries as he thinks fit.

Idem.

(3) It is not necessary for the Commissioner to hold any hearing and no person is entitled as of right to be heard by the Commissioner, but, if at any time during the course of an investigation it appears to the Commissioner that there may be sufficient grounds for his making a report or recommendation that may adversely affect any Department, agency or person, he shall give to that Department, agency or person an opportunity to be

heard, and the Department, agency or person is entitled to counsel at the hearing.

Procedure

(4) Subject to this Act and any rules made under Section 30, the Commissioner may regulate his procedure in such manner as he thinks fit.

Evidence at investigation.

20.—(1) Subject to this section and to Section 21, the Commissioner may require any person who, in his opinion, is able to give any information relating to any matter being investigated by him

(a) to furnish the information to him; and

(b) to produce any document, paper or thing that in his opinion relates to the matter being investigated and that may be in the possession or under the control of that person,

whether or not that person is an officer, employee or member of a Department or agency and whether or not the document, paper or thing is in the custody or under the control of a Department or agency.

Examination of witnesses under oath.

(2) The Commissioner may summon before him and examine on oath

(a) any person who is an officer or employee or member of any Department or agency and who in the Commissioner's opinion is able to give any information referred to in subsection (1);

(b) any complainant; or

(c) any other person who in the Commissioner's opinion is able to give any information referred to in subsection (1),

and for that purpose may administer an oath.

Where person examined is under oath of secrecy.

(3) Subject to subsection (4), a person who is bound by any Act to maintain secrecy in relation to, or not to disclose, any matter is not required to

(a) supply any information to or answer any question put by the Commissioner in relation to that matter; or

(b) produce to the Commissioner any document, paper or thing relating to it,

if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

Idem.

(4) With the prior consent in writing of a complainant, any person to whom subsection (3) applies may be required by the Commissioner to supply information or answer any question or produce any document, paper or thing relating only to the complainant, and it is the duty of the person to comply with the requirement.

Respecting privileges of witnesses.

(5) Every person has the same privileges in relation to the giving of information, the answering of questions and the production of documents, papers and things under this Act as witnesses have in any court.

Admissibility of evidence supplied to Commissioner.

(6) Except on the trial of a person for perjury, no statement made or answer given by that or any other person in the course of an inquiry by or any proceedings before the Commissioner is admissible in evidence against any person in any court or at any inquiry or in any other proceeding, and no evidence in respect of proceedings before the Commissioner shall be given against any person.

Commissioner deemed to be an investigating body for the purposes of The Evidence (Public Investigations) Act.

(7) The Commissioner is deemed to be an "investigating body" for the purposes of The Evidence (Public Investigations) Act.

Protection of persons giving evidence.

(8) No person is liable to prosecution for an offence against any Act by reason of his compliance with any requirement of the Commissioner under this section.

Disclosures restricted.

21.—(1) Where the Minister of Justice certifies that the giving of any information or the answering of any question or the production of any document, paper or thing might involve the disclosure of

(a) the deliberations of the Executive Council; or

(b) proceedings of the Executive Council, or committee thereof relating to matters of a secret or confidential nature and would be injurious to the public interest,

the Commissioner shall not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced, but shall report the giving of the certificate to the Legislature.

Saving.

(2) Subject to subsection (1), the rule of law that authorizes or requires the withholding of any document, paper or thing, or the refusal to answer any question, on the ground that the disclosure of the document, paper or thing or the answering of the question would be injurious to the public interest, does not apply in respect of any investigation by or proceedings before the Commissioner.

Maintenance of secrecy.

22. (1) The Commissioner and every person holding an office or appointment under him shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions.

Saving.

(2) Notwithstanding subsection (1), the Commissioner may disclose in any report made by him under this Act such matters as in his opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations.

Procedure after investigation

23. (1) This section applies where, after making an investigation under this Act, the Commissioner is of opinion that the decision, recommendation, act or omission that was the subject matter of the investigation

(a) appears to have been contrary to law;

(b) was unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;

(c) was based wholly or partly on a mistake of law or fact; or

(d) was wrong.

Idem. (2) This section also applies where the Commissioner is of opinion

(a) that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised

(i) for an improper purpose,

(ii) on irrelevant grounds, or

(iii) on the taking into account of irrelevant considerations; or

(b) that, in the case of a decision made in the exercise of a discretionary power, reasons should have been given for the decision.

Idem. (3) If, where this section applies, the Commissioner is of opinion

(a) that the matter should be referred to the appropriate authority for further consideration;

(b) that the omission should be rectified;

(c) that the decision should be cancelled or varied;

(d) that any practice on which the decision, recommendation, act or omission was based should be altered;

(e) that any law on which the decision, recommendation, act or omission was based should be reconsidered;

(f) that reasons should have been given for the decision; or

(g) that any other steps should be taken,

the Commissioner shall report his opinion and his reasons therefor to the appropriate Minister and to the Department or agency concerned, and may make such recommendations as he thinks fit and in that case he may request the Department or agency to notify him within a specified time of the steps, if any, that it proposes to take to give effect to his recommendations.

Idem.

(4) If within a reasonable time after the report is made no action is taken which seems to the Commissioner to be adequate and appropriate, the Commissioner, in his discretion, after considering the comments, if any, made by or on behalf of the Department or agency affected, may send a copy of the report and recommendations to the Lieutenant-Governor in Council and shall thereafter make such report to the Legislature on the matter as he thinks fit.

Idem.

(5) The Commissioner shall attach to every report sent or made under subsection (4) a copy of any comments made by or on behalf of the Department or agency concerned.

Idem.

(6) Notwithstanding anything in this section, the Commissioner shall not, in any report made under this Act, make any comment that is adverse to any person unless the person has been given an opportunity to be heard.

Results of investigation to be made known to the complainant.

24.—(1) Where the Commissioner makes a recommendation under subsection (3) of Section 23 and no action that seems to the Commissioner to be adequate and appropriate is taken thereon within a reasonable time, the Commissioner shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

Idem.

(2) The Commissioner shall in any case inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation.

Proceedings of Commissioner not subject to review.

25. No proceeding of the Commissioner shall be held bad for want of form and, except on the ground of lack of jurisdiction, no proceedings or decision of the Commissioner shall be challenged, reviewed, quashed or called in question in any court.

Proceedings of Commissioner privileged

26.—(1) No proceedings lie against the Commissioner or against any person holding an office or appointment under the Commissioner for anything he may do or report or say in the course of the exercise or intended exercise of his powers, duties and functions under this Act, unless it is shown that he acted in bad faith.

Commissioner not to be called to give evidence of his proceedings.

(2) The Commissioner or any person holding an office or appointment under the Commissioner shall not be called upon to give evidence in any court or in any proceedings of a judicial nature in respect of any thing coming to his knowledge in the exercise of his powers, duties or functions under this Act.

Information given to Commissioner privileged

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any inquiry by or proceedings before the Commissioner under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

Privilege respecting laws of defamation

(4) For the purposes of any Act or law respecting defamation, any report made by the Commissioner under this Act shall be deemed to be privileged and a fair and accurate report thereon in a newspaper or a radio or television broadcast shall be deemed to be privileged.

Entry of premises.

27.—(1) For the purposes of this Act, the Commissioner may at any time enter upon any premises occupied by any Department or agency and inspect the premises and, subject to Sections 20 and 21, carry out therein any investigation that is within his jurisdiction.

Idem

(2) Before entering upon any premises pursuant to subsection (1), the Commissioner shall notify the Deputy Minister of the Department or, as the case may require, the administrative head of the agency that occupies the premises of his intention to do so.

Delegation of powers.

28.—(1) With the prior approval of the Lieutenant-Governor in Council, the Commissioner may, by writing under his hand, delegate to any person holding any office under him any of his powers under this Act, except this power of delegation and the power to make any report under this Act.

(2) A delegation may be made to a specified person or to the holder for the time being of a specified office or to the holders of offices of a specified class. Idem.

(3) Every delegation is revocable at will and no delegation prevents the exercise of any power by the Commissioner. Delegation revocable.

(4) A delegation may be made subject to such restrictions and conditions as the Commissioner thinks fit, and may be made either generally or in relation to any particular case or class of cases. Delegation may be subject to restrictions.

(5) Until a delegation is revoked, it continues in force according to its tenor and, in the event of the Commissioner by whom it was made ceasing to hold office, continues to have effect as if made by his successor. Duration of delegation.

(6) While exercising any power of the Commissioner delegated to him under this section, the person exercising such power is subject to, and entitled to all the benefits, privileges and protection of, the provisions of this Act relating to the Commissioner. Protection of persons to whom powers delegated.

(7) Any person purporting to exercise any power of the Commissioner by virtue of such a delegation shall, when required to do so, produce evidence of his authority to exercise the power. Person exercising delegated authority to give evidence of delegation.

29.—(1) The Commissioner shall, in each year, make a report to the Legislature on the exercise of his powers, duties and functions under this Act. Annual report to be made by Commissioner.

(2) The Commissioner may, from time to time, in the public interest or in the interests of any person or Department or agency, publish reports relating Publication of certain reports.

(a) generally to the exercise of his powers, duties and functions under this Act; or

(b) to any particular case investigated by him,

whether or not the matters to be dealt with in any such report have been the subject of a report to the Legislature.

House of Assembly may make rules for Commissioner's guidance

30. The House of Assembly may,

(a) of its own volition; or

(b) upon the recommendation of the Lieutenant-Governor in Council,

make rules for the guidance of the Commissioner in the exercise of his powers, duties and functions under this Act.

Offences and penalties

31.—(1) Any person who

(a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Commissioner or any other person in the exercise of any of his powers, duties or functions under this Act;

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Commissioner or any other person under this Act; or

(c) wilfully makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of any of his powers, duties or functions under this Act,

is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

Idem

(2) Any officer or other employee appointed under Section 11 who makes known, except for the purpose of giving effect to the provisions of this Act, anything that has come to his knowledge in the performance of his duties or functions under this Act is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

This Act in addition to provisions of other Acts

32. The provisions of this Act are in addition to the provisions of any other Act or any rule of law under which

(a) any remedy or right of appeal or objection is provided for any person; or

(b) any procedure is provided for the inquiry into or investigation of any matter,

and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure.

Payments out of Consolidated Revenue Fund.

33. The Minister of Finance shall, from moneys voted by the Legislature for the purpose, make payments out of the Consolidated Revenue Fund for the purposes of paying all salaries and allowances and other expenditure payable or incurred under or in the administration of this Act.

Limitation.

34. The Commissioner shall not make an investigation into any act or omission that occurred more than twelve months before the day of the coming into force of this Act.

Non-application to provincial courts or the Executive Council.

35. Subject to Section 21, this Act does not apply to

(a) judges, magistrates and functions of any court of the province; or

(b) deliberations and proceedings of the Executive Council or any committee thereof.

Intepretation.

36. The purpose and intent of this Act is to govern only matters within the competence of the Legislature of the province, and nothing in this Act shall be construed to govern any matter which is not subject to the Legislative authority of the said Legislature.

Date of coming into force.

37. This Act shall come into force on a day to be proclaimed by the Lieutenant-Governor in Council.

E. RALPH DAVIS, QUEEN'S PRINTER.

AN ACT TO AMEND THE PARLIAMENTARY COMMISSIONER (OMBUDSMAN) ACT.

(May 2, 1975)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Parliamentary Commissioner (Ombudsman) (Amendment) Act, 1975.

Repeal Sec. 3.

2. Section 3 of The Parliamentary Commissioner (Ombudsman) Act, Chapter 285 of The Revised Statutes of Newfoundland, 1970, is repealed.

Repeal and substitution Sec. 9(1).

3. Subsection (1) of Section 9 of the said Act is repealed and the following substituted therefor:

Salary of Commissioner

"(1) The Commissioner shall be paid a salary comparable to the salary paid to the Chief Magistrate of the Provincial Court of Newfoundland."

Amdt. Sec. 16(3).

4. Subsection (3) of Section 16 of the said Act is amended by deleting the expression "Hospital for Mental and Nervous Diseases, St. John's, and includes any other hospital" and by substituting therefor the expression "Waterford Hospital, and includes any other hospital, or part of a hospital,".

Date of coming into force.

5. This Act shall come into force on the day that The Parliamentary Commissioner (Ombudsman) Act comes into force.

E. RALPH DAVIS, QUEEN'S PRINTER.

CHAPTER 30

AN ACT TO AMEND THE PARLIAMENTARY COMMISSIONER (OMBUDSMAN) ACT

(Assented to December 3, 1982)

Analysis

Section:

1. S.2(1)(a) Amdt. The Waterford Hospital
2. S. Added. 14.1 Complaints re Constabulary
3. S.16(3) R&S. Definition

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

RSN 1970 c.285 as amended

1. Paragraph (a) of subsection (1) of section 2 of The Parliamentary Commissioner (Ombudsman) Act is amended by adding immediately after the words "The Workers' Compensation Act," the words "the Waterford Hospital".

2. The said Act is amended by adding immediately after section 14 the following:

Complaints re Constabulary

"14.1(1) Without limiting the generality of this Act, where a person has a complaint against any member of The Royal Newfoundland Constabulary that person may report the complaint to the Commissioner.

(2) Notwithstanding any provision of this Act, the Commissioner may investigate, review, recommend and report with respect to any complaint made under subsection (1) in accordance with the procedure set forth in this Act."

3. Subsection (3) of section 16 of the said Act is repealed and the following substituted:

"(3) For the purposes of subsection (2), "hospital" means the Waterford Hospital, and includes any other hospital, or part of a hospital, designated by the Minister of Health, with the consent of the authority operating the hospital, as a treatment facility under subsection (2) of section 4 of The Mental Health Act, 1971."

David C.B. Dawe, Queen's Printer